

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

WILLIE MCPHAUL,)
Petitioner,)
vs.) Case No. 08-3428-CV-S-GAF
MARTY C. ANDERSON, Warden,)
Respondent.)

ORDER

Now pending before the Court is Petitioner's Petition for Writ of Habeas Corpus (Doc.

#1). Petitioner contends that the Bureau of Prisons (“BOP”) has intentionally withheld discovery material, which denied him access to the courts. He asserts that he has attempted to have good time credits restored that were erroneously taken, and that in an effort to prevent petitioner from exhausting administrative remedies, the institution withheld documents for two years. Petitioner also contends that the Disciplinary Hearing Officer (“DHO”) failed to recognize that the officer who reported the incident was the same officer who investigated the incident, which is a violation of institutional policy and of his due process rights. He alleges that the DHO took excessive good time credit from him, that he has a liberty interest in the good time credit, and that it should be restored.

On May 28, 2009, Chief United States Magistrate Judge James C. England issued his Report and Recommendation (Doc. #17). On June 3, 2009, Petitioner filed his Objections to the Report and Recommendation (Doc. # 18).

Upon careful and independent review of the Petition for Writ of Habeas Corpus, Petitioner's objections to the Report and Recommendation, as well as the applicable law, this

Court hereby adopts and incorporates as its own Opinion and Order the Report and Recommendation of Chief United States Magistrate Judge James C. England.

Accordingly, it is hereby ORDERED that Petitioner is denied leave to proceed in forma pauperis and Petitioner's Petition for Writ of Habeas Corpus is dismissed without prejudice.

IT IS FURTHER ORDERED that the Motion to Withdraw (Doc. #11) filed by David R. Mercer, is granted.

SO ORDERED.

s/ Gary A. Fenner

Gary A. Fenner, Judge
United States District Court

DATED: June 4, 2009